

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

JEROME D. JOHNSON, PRO SE  
#287256

PLAINTIFF

VERSUS

CAUSE NO.1:07cv539LG-JMR

WARDEN CABANA; SERGEANT LEONARD;  
INVESTIGATOR CAROLYN PENDERGAST;  
CAPTAIN GASTON; AND CAPTAIN CAMPBELL

DEFENDANTS

ANSWER OF HARRISON COUNTY TO AMENDED COMPLAINT

COMES NOW Harrison County, Mississippi, through its duly constituted and elected Board of Supervisors (hereafter "Harrison County") through its attorney of record, and files this its separate Answer to the Amended Complaint presented against it, and shows the following:

FIRST AFFIRMATIVE DEFENSE

The Amended Complaint fails to state a claim upon which this Court can grant relief.

SECOND AFFIRMATIVE DEFENSE

Defendant Harrison County, acting through its Board of Supervisors, is exempt as a governmental entity and its employees pursuant to Miss. Code Annotated §11-46-9, et. seq., specifically sections 1(b), (c), (d) and(m).

THIRD AFFIRMATIVE DEFENSE

Harrison County claims sovereign immunity from for any damages

by Plaintiff, as made and provided in Miss. Code Annotated §11-46-1, et. seq.

#### FOURTH AFFIRMATIVE DEFENSE

Plaintiff failed to give notice of his claim pursuant to Miss. Code Annotated §11-46-11, et. seq.

#### FIFTH AFFIRMATIVE DEFENSE

Plaintiff's Amended Complaint is subject to the exclusive remedy provisions of §11-46-7 of the 1972 Miss. Code Annotated. (Supp. 1996).

#### SIXTH AFFIRMATIVE DEFENSE

Plaintiff's Amended Complaint is barred pursuant to the statute of limitations set forth in §11-46-11 of the 1972 Miss. Code Annotated (Supp. 1996), and any other pertinent statutes of limitation.

#### SEVENTH AFFIRMATIVE DEFENSE

The subject of the Plaintiff's Amended Complaint does not involve any implementation or execution of any policy, statement, ordinance or regulation or decision officially adopted and/or promulgated by this Defendant. The Defendant neither promulgated nor condoned any policy, custom or usage, or the implementation thereof, which allegedly resulted in any constitutional violations or deprivations of Plaintiff.

#### EIGHTH AFFIRMATIVE DEFENSE

All claims are barred by the applicable state and federal

statute of limitations.

NINTH AFFIRMATIVE DEFENSE

Plaintiff cannot recover punitive or exemplary damages against this Defendant.

ELEVENTH AFFIRMATIVE DEFENSE

Harrison County would show that any damages of the Plaintiff, the existence thereof of which are denied, were the result of inactions or actions of persons other than this Defendant, whose actions Harrison County did not control, or have the right to control.

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiffs cannot recover damages under 42 USC § 1983, 42 USC § 1985, 42 USC § 1986 AND 42 USC § 1988 against Harrison County under the Doctrine of Respondeat Superior.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiff failed to follow the proper administrative procedures at the Harrison County Adult Detention Center (HCADC) prior to filing his lawsuit.

THIRTEENTH AFFIRMATIVE DEFENSE

Defendant states Plaintiff cannot recover punitive damages against this Defendant because it would violate Section 28 of the Mississippi Constitution, provisions of the Constitution of the United States of America, and §11-46-15 of 1972 Miss. Code Ann. (Supp. 1996), to which Plaintiff's damages are limited.

SEVENTEENTH AFFIRMATIVE DEFENSE

Without waiving the above Affirmative Defenses, Harrison County answers the Amended Complaint as follows:

I.

Each and every allegation in the Plaintiff's Amended Complaint beginning with Page 1, Request to Amend Complaint, and following through Page 4, is denied.

WHEREFORE, Defendant, Harrison County, files this its separate Answer to the Amended Complaint presented against it and upon final hearing moves that same be dismissed with prejudice with costs being assessed against Plaintiff.

RESPECTFULLY SUBMITTED, this the 9<sup>th</sup> day of June, 2008

HARRISON COUNTY, MISSISSIPPI  
through its duly constituted  
and elected Board of  
Supervisors

MEADOWS LAW FIRM

BY: /s/ *Karen J. Young*  
KAREN J. YOUNG

**CERTIFICATE OF SERVICE**

I, Karen J. Young, of Meadows Law Firm, do hereby certify that a true and correct copy of the above and foregoing Answer and Defenses of Harrison County, Mississippi to the Amended Complaint was filed with the United States District Court wherein a copy was forwarded via U.S. Postal Service, postage prepaid to:

Jerome D. Johnson  
#287256  
Pascagoula Restitution Center  
P.O. Box 427  
Pascagoula, MS 39568

SO CERTIFIED this the 9<sup>th</sup> day of June, 2008.

/s/ *Karen J. Young*  
KAREN J. YOUNG, MS Bar #6654

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